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SIDNEY YOUNG, COURT REPORTER, 418 FEDERAL BLDG., SHREVEPORT, LA.

Filed May 23, 1955

STIPULATION

The above parties, having conferred in regard to the above identified action, agree and stipulate that the following facts may be accepted as established for purposes of review by the Honorable Court of the rejection on double patenting entered by the Patent Office examiner and affirmed by the Board of Appeals in plaintiff's application Serial No. 581,373, filed March 7, 1945.

Plaintiff filed on October 14, 1935, an application, Serial No. 44.988, upon which patent No. 2,233,395, was granted on March 4, 1941. This is plaintiff's parent application and its filing date is plaintiff's effective filing date.

During the pendency of application Serial No. 44,988, and on May 28, 1938, plaintiff filed an application, Serial No. 210,585 upon which patent No. 2,199,611 was granted on May 7, 1940. Application Serial No. 210,585 is a division of plaintiff's parent application Serial No. 44,988, and is entitled to the benefit of its filing date, October 14, 1935.

On February 20, 1941, and during the pendency of application Serial No. 44,988, plaintiff filed an application, Serial No. 379,822, upon which patent No. 2,395,212 was granted on February 19, 1946. Application Serial No. 379,822 is a continuation-in-part of application Serial No. 44.988. As to the subject matter of claims 1, 2 and 3 in suit, plaintiff is entitled to the benefit of the filing date of application Serial No. 44,988, to wit, October 14, 1935.

Plaintiff's application in suit. Serial No. 581,373. was filed on March 7, 1945, and during the pendency of application Serial No. 379,822. As to the subject matter of claims 1, 2 and 3 in suit, plaintiff is entitled to the benefit of the effective filing date of application Serial No. 379,822, which is October 14, 1935.

As filed on February 20. 1941, plaintiff's application Serial No. 379.822 contained claims 8, 9 and 10, which are, in substance, the same as claims 1, 2 and 3 in suit. but which are not identical therewith.

Claims 1, 2 and 3 are generic claims.

As granted on May 7, 1940, plaintiff's patent No. 2,199,611 included claims expressing one of the species defined in generic claims 1, 2 and 3.

As filed on October 14, 1935, plaintiff's application Serial No. 44,988 contained a claim numbered 15, reading as follows:

> "In a safety apparatus for boilers, the combination of a water supply conduit, a fuel supply conduit, a fluid pressure actuated valve for each of said conduits, and a master control unit comprising control valves for controlling the fluid pressure for actuating the valves in said conduits, a lever in said master unit for successively opening said master control valves, and means in said unit responsive to fluctuations in the water level in the boiler for rocking said lever. "

On April 6, 1940, plaintiff filed an amendment in his application Serial No. 44,988 reciting in part, as follows:

> "Cancel all claims except Claim 14 and Applicant reserves the right to amend the cancelled claims and make them the subject matter of divisional applications. "

On December 5, 1940, plaintiff, in requesting delay in issuance of Patent No. 2,233 395, upon his application Serial No. 44,988, stated, in part, as follows:

> "At this time we have another application pending, which is a partial division of this application, but we have not quite completed it for filing yet.
>
> We would, therefore, like to have the publication of this patent (application No. 44, 988) held ninety days, or the limit for getting this out."

With respect to said claim 15, the Patent Office Examiner had, on May 7, 1938, made the following statements in plaintiff's application Serial No. 44,988:

> "Claims 15 to 17 stand rejected on House in view of Fulton as urged in connection with claims 1 to 5. These are organization claims. Therefore, the examiner does not consider that specific features of appellant's valve construction are germane to the invention claimed. The examiner has held that any novelty in appellant's valve construction per se is subject matter for separate applications."

Alva G. Blanchard
Plantiff, pro se

E. L. Reynolds, Solicitor,
United States Patent Office,
Attorney for Defendant

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ADDITIONAL STIPULATION

The above parties hereby further stipulate and agree that as filed on May 28, 1938, plaintiff's application Serial No. 210,585, upon which patent No. 2,199,611 was granted on May 7, 1940, contained an original claim numbered 1, reading as follows:

> "A housing having an opening, a plug in said opening, a plurality of outlet passages through said plug, a valve in each of said passages, a valve operating lever fulcrumed on said plug and extending into said housing, a float on the inner end of said lever, and connections between said lever and each of said valves whereby said valves are opened one at a time in sequence, responsive to the downward movement of said float."

In his initial action dated July 7, 1938, the Patent Office examiner rejected said claim as substantially met by each of the following patents:

Humphrey	796,516	Aug. 8, 1905
Wright	668,302	Feb. 19, 1901

On September 9, 1938, plaintiff amended said claim to the form in which it appears as claim 1 of said patent, stating:

> "It is now thought that Claim 1 has been sufficiently amended to show that it is not now broad enough to include Humphrey and Wright."

Alva G. Blanchard
Plaintiff, pro se

E. L. Reynolds, Solicitor,
United States Patent Office,
Attorney for Defendant.

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